PAH-103

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Kjell Lindskog	Examiner: Nam V. Nguyen
Mark: Method For Opening A Transportable Container	Group Art Unit: 2612
Serial No. 10/502,018	
Filed: December 27, 2004	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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APPEAL BRIEF

I. INTRODUCTION -

This is an appeal from the final rejection of Claims 1 - 20 made in the Official Action dated December 11, 2007.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

8/11/08

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(Date of Deposit)

A timely Notice of Appeal was filed in Patent & Trademark Office on June 12, 2008.

Appealed Claims 1 - 20 are reproduced in the attached Appendix of Appealed Claims.

II. REAL PARTY IN INTEREST -

SQS Security Qube System AB, a Swedish corporation maintaining its principal place of business at SE-931 27 Skelleftea, Sweden, the Assignee of all right, title and interest in and to the subject patent application, is the real party in interest.

III. RELATED APPEALS AND INTERFERENCES -

Applicant, Applicant's Assignee, and the legal representative of Applicant and the legal representative of Applicant's Assignee, are unaware of any prior or pending appeals, interferences or judicial proceedings which may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision in the present Appeal.

IV. STATUS OF CLAIMS -

Claims 1 - 20 have been rejected, and the rejection of Claims 1 - 20 has been appealed and is presented to the Board for review.

No claims have been allowed, withdrawn, objected to, or cancelled.

V. STATUS OF AMENDMENTS -

An Amendment After Final Rejection was filed on April 11, 2008 in response to the Official Action dated December 11, 2007, placing this application under final rejection.

In an Advisory Action dated June 4, 2008, the rejection of Claims 1 - 20 under 35 U.S.C. Section 112, second paragraph, made in the Official Action dated December 11, 2007, was withdrawn.

The rejection of Claims 1 - 20 over the prior art applied in the Official Action dated December 11, 2007 was maintained in the Advisory Action dated June 4, 2008.

VI. SUMMARY OF CLAIMED SUBJECT MATTER -

Appealed independent Claim 1 is directed to a method for opening a container designated by reference numeral 1 which transports therein valuable objects or valuable documents (Applicant's Specification, page 1, lines 3 - 9; page 2, lines 20 - 23; Fig. 3 of the drawing). The container 1 includes a first electronic unit designated by reference numeral 2, which allows deactivation of an alarm system to permit opening of the container without destroying the contents therein (Applicant's Specification, page 2, lines 10 - 20; Fig. 3 of the drawing). A first container opening key designated by reference numeral 10 includes a second electronic unit designated by reference numeral 12 which communicates with the first electronic unit 2 when initiating opening of the container 1. (Applicant's Specification, page 2, line 32 through page 3, line 12; Figs. 2 - 3 of the drawing). The container 1 includes means for destroying the contents within the container, as for example by a destructive agent, in the event that an attempt to open the container is made without de-activating an alarm signal (See Applicant's Specification, page 2, lines 10 - 30).

In accordance with the method defined by independent Claim 1, a second key designated by reference numeral 20 is stationarily disposed at a predetermined location, as for example a location at which an authorized opening of the container will occur. (Applicant's Specification, page 3, lines 29 - 37; page 4,

lines 9 - 12; page 4, lines 35 - 37; Fig. 1 of the drawing). The first key 10 is used simultaneously with the second key 20 for completing a full code-set required to initiate de-activation of the alarm system to permit opening of the container without destroying the contents therein. (Applicant's Specification, page 4, lines 21 - 37; Figs. 1 - 2 of the drawing). Accordingly, the method defined by appealed independent Claim 1, requires simultaneous input of different portions of a code from both a first key 10 and a second key 20, the second key being stationarily positioned in a predetermined location, assuring authorized opening of the container only at the predetermined location at which the second key is located. (Applicant's Specification, page 4, lines 32 - 37; page 5, lines 4 - 7).

VII. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL -

The grounds of rejection presented for review in the present Appeal are:

1. Whether Claims 1 - 4 and 11 are unpatentable under 35 U.S.C. Section 103(a) over the Schesso patent (U.S. Pat. No. 3,654,880) in view of the Lacombe et al (U.S. Pat. No. 6,430,689), as applied in the Official Action dated December 11, 2007 placing this application under final rejection; and

2. Whether Claims 5 - 10 and 12 - 20 are unpatentable under 35 U.S.C. Section 103(a) over Schesso, in view of Lacombe et al, in further view of Kniffin et al (U.S. Pat. No. 5,705,991).

As noted above, the rejection of the claims under 35 U.S.C. Section 112, second paragraph, made in the Official Action dated December 11, 2007, was withdrawn in the Advisory Action dated June 4, 2008 in view of the Amendment After Final Rejection filed on April 11, 2008.

The obvious-type double patenting rejection of Claims 1 - 4, 6, and 9 - 20 made in the Official Action dated December 11, 2007, based upon co-pending Appl. Serial No. 10/502,020, is provisional in nature, since the alleged conflicting claims of Serial No. 10/502,020 have not yet been patented. Accordingly, this provisional rejection is not presented for review in the present Appeal.

VIII. ARGUMENT -

a). The Rejection Of Appealed Independent Claim 1 Under 35 U.S.C. Section 103(a) Over Schesso In View of Lacombe et al

Independent Claim 1 has been rejected under 35 U.S.C. Section 103(a) as being unpatentable over the Schesso patent (U.S. Pat. No. 3,654,880) in view of the Lacombe et al (U.S. Pat.

No. 6,430,689). Claims 1 is the only independent claim presented for review in the present Appeal. Accordingly, for the purpose of simplifying the issues, only the rejection of independent Claim 1 will be argued in the present Appeal. If independent Claim 1 is deemed to be allowable, the remaining rejected appealed dependent Claims 2 - 20 will be allowable, at least for the same reasons as parent independent Claim 1.

As discussed herein, independent Claim 1 is directed to a method in which a container can only be opened without destroying the contents therein by employing a first key, which can be movable with the container, to provide a portion of a container opening code, and simultaneously using the first key with a second key having a second portion of the container opening code, to complete the access code for de-activating an alarm system to permit authorized opening of the container without destroying the contents therein. The second key 20 is stationarily positioned at a predetermined location so that authorized opening of the container can occur only at the predetermined location at which the portions of the access code from both the first and second keys can be simultaneously inputted to the container to de-activate the alarm system therein.

The Schesso patent discloses a container having a first key for opening a mechanical lock 38 on the container, and a second electro-mechanical lock that is releasable only by inputting a predetermined code (Col. 2, lines 44 - 47; and Col. 2, lines 49 -

52 of the Schesso specification). However, Schesso does not teach or suggest a second key stationarily positioned at a predetermined location at which authorized opening of the container is to occur, to enable simultaneous inputting different portions of an access code from the first and second keys, respectively, to assure that authorized opening of the container can occur only at the location at which the stationarily positioned key is located.

Thus, the Schesso patent discloses only a first mechanical key and a second electro-mechanical lock for opening a container. The entire access code is inputted only by the second electro-mechanical key, and there is no teaching or suggestion for simultaneously inputting different portions of an entire access code from two different keys. More importantly, there is no teaching or suggestion in the Schesso patent that a second key, including only a portion of an entire access code, is stationarily positioned at a predetermined location, thereby limiting authorized opening of the container to the predetermined location at which the stationary second key is located.

The Schesso patent has been combined with Lacombe et al to reject independent Claim 1. Lacombe et al was cited in the Official Action placing this application under Final Rejection as disclosing a first container opening key including a second electronic unit adapted to communicate with a first electronic unit when initiating opening of a container. However, even if

the first mechanical key disclosed by Schesso is replaced with an electronic key, this combination does not teach or suggest the method defined by appealed independent Claim 1 when all positively recited features of this claim are considered. This is because Lacombe et al does not teach or suggest: 1). a portion of an entire code inputted by a first key, and a second portion completing the entire code simultaneously inputted by a second key only at a predetermined location at which the container is to be opened; and 2). a second key for inputting a second portion of the entire access code simultaneously with a first portion of an access code from a first key, in which the second key is stationarily located at a predetermined location to assure that the container can be opened only at the predetermined location.

The disclosure of the Lacombe et al patent, when considered in its entirety, actually teaches away from the method defined by appealed independent Claim 1. A basic objective of Applicant's claimed method is to provide a second key stationarily located at a predetermined location at which the container is to be opened so that the container can only be opened at such predetermined location. However, the Lacombe et al patent states, in pertinent part:

> "A first station 5 is naturally located at the departure location of the container 1, and in accordance with the invention and with reference to FIG. 2, the arrival station is no longer resident, but on the contrary is mobile and transportable for all reasons described at length in the preamble to this description, namely that the transporter can deliver cash very occassionally to an addressee who may

be located at any location without the need for the same transporter to have come earlier to install an arrival station containing sophisticated and consequently expensive equipment" [Col. 4, lines 1 - 11 of the Lacombe et al Specification, emphasis added].

Therefore, Lacombe et al, which advocates against installing an arrival station, teaches directly away from the method defined by appealed independent Claim 1, which expressly recites the step of "...using a stationarily disclosed second key (20)...". Thus, Lacombe et al expressly teaches against a predetermined arrival station having previously installed equipment, while the method defined by appealed independent Claim 1 encompasses a predetermined location (i.e., a predetermined arrival station) at which the container can be opened, said predetermined location corresponding to the location at which the stationarily disposed second key is located (i.e., equipment previously installed in the arrival station to open the container).

Applicant respectfully submits that there is clearly no suggestion in the prior art itself, or within the knowledge of a person skilled in the relevant art, to combine the disclosures of the Schesso patent with the Lacombe et al patent in any manner rendering the method defined by appealed Claim 1 obvious. Neither the Schesso nor the Lacombe et al patents teach or suggest the method defined by appealed independent Claim 1 when all positively recited features of the claim are considered in the patentability determination. Moreover, since the Lacombe et

al patent expressly teaches against a significant feature positively recited in Applicant's claimed method, there can be no suggestion in the art itself, or to a person skilled in the relevant art, to combine Lacombe et al with Schesso to result in the method defined by appealed independent Claim 1.

Since there is clearly no suggestion or motivation in the prior art itself, or within the knowledge of a person skilled in the relevant art, to combine Schesso and Lacombe et al in any manner rendering the method defined by appealed Claim 1 obvious, the only basis for the combination of the references made to reject independent Claim 1 must be derived from using Applicant's own disclosure as a guide for selectively combining different features of the two different references to reconstruct appealed independent Claim 1. However, a rejection based upon a hindsight combination of references using Applicant's own disclosure as a guide for selectively combining different features of the different references in the right way to reconstruct the rejected claim, is improper as a matter of law. See, for example, Micro-Chemical, Inc. v. Great Plains Chemical Co., Inc., 41 USPQ 2d 1238 (Fed. Cir. 1997); In re Fritch, 23 USPQ 2d 1780 (Fed. Cir. 1992); and Orthopedic Equipment Co. v. United States, 217 USPQ 193 (Fed. Cir. 1983).

For the reasons discussed herein, Applicant submits that the rejection of appealed independent method Claim 1 over a combination of the Schesso and Lacombe et al patents is improper

because 1). neither Schesso nor Lacombe et al disclose or suggest all features positively recited in the method defined by independent Claim 1; and 2). as a result of the diverse disclosures of the Schesso and Lacombe et al patents, including disclosure by Lacombe et al teaching directly against a positively recited feature of the method defined by appealed independent Claim 1, there can be no suggestion or motivation in the art itself, or to a person skilled in the relevant art, to combine these two references in any manner rendering the method defined by appealed independent Claim 1 obvious. Accordingly, the only basis for combining these two references, assuming arguendo that such a combination can be made (a proposition with which Applicant disagrees because the two references collectively do not teach or suggest all features of the claimed method), must be derived by using Applicant's own disclosure as a guide for selectively combining different features of the different references to reconstruct Claim 1, which is an improper basis for rejection as a matter of law.

IX. CONCLUSION -

Applicant respectfully submits that appealed independent method Claim 1 is allowable over the prior art applied in the Official Action placing this application under final rejection, and appealed dependent Claims 2 - 20, are allowable at least for the same reasons as parent independent Claim 1.

Applicant respectfully requests that the rejection of Claims 1 - 20 be reversed, and that this patent application be allowed.

Respectfully submitted,

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APPENDIX OF APPEALED CLAIMS

Claim 1. A process of opening a container for a transportion of valuable objects or valuable documents, wherein the container (1) includes a first electronic unit (2) which functions to allow deactivation of an alarm system and/or opening of the container, and wherein a first container-opening key (10) includes a second electronic unit (12) adapted to communicate with the first electronic unit (2) when initiating opening of said container, said container including means for destroying the valuable objects or documents contained therein unless said alarm system is deactivated by a full code-set (ABCD) when opening the container, characterised by a step of using a stationarily disposed second key (20) together with the first key (10) for simultaneously completing the full code-set (ABCD) required to initiate deactivation of said alarm system and/or opening of the container (1) without destroying the valuable objects or documents within said container.

Claim 2. A process according to Claim 1, characterised in that the stationarily disposed second key (20) includes a third electronic unit (22) which contains a subset (CD) of the complete code-set (ABCD) required to initiate deactivation of said alarm system and/or opening of the container (1).

Claim 3. A process according to Claim 1, characterised in that the electronic unit (12) of the first key (10) includes a subset (AB) of the complete code-set (ABCD) required to initiate deactivation of the alarm system and/or opening of the container (1).

Claim 4. A process according to Claim 1, characterised by another step of deactivating the alarm system and/or opening the container when the first key (10) is in the geographic vicinity of the second key (20) and/or physically connected to said second key, and deactivating the alarm system and/or opening of the container (1) only within a predetermined time period.

Claim 5. A process according to Claim 1, characterised by another step of transferring from the first key to the second key (20) a subset (CD) of the complete code-set (ABCD) when said first key (10) is used together with the second key (20) for the first time, wherein said code subset (CD) is thereafter found only in the second key (20).

Claim 6. A process according to Claim 1, characterised by another step of opening a dialog-like communication with the electronic unit (2) of the container (1) for allowing deactivation of the alarm system and/or opening of the container (1) to be completed, through the medium of code interplay when the complete code-set (ABCD) for initiating opening of the container (1) and deactivating the alarm system is provided.

Claim 7. A process according to Claim 1, characterised by another step of stationarily installing the second key (20) in a room or in a space where deactivation of the alarm system and/or opening of the container (1) shall be initiated; and destroying a code subset (CD) contained in the second key (20) in response to an attempt to invalidate said stationary installation.

Claim 8. A process according to Claim 1, characterised by another step of destroying a code subset (CD) contained by the second key (20) in response to damaging a casing (21) containing the stationary second key (20).

Claim 9. A process according to Claim 1, characterised by another step of installing said stationary second keys (20) in a number of rooms or spaces included in the transportation route of transportable said containers (1).

Claim 10. An arrangement for carrying out the process according to Claim 1, characterised in that the arrangement includes said second key (20) which has a third an electronic unit (22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

Claim 11. A process according to Claim 2, characterised in that the electronic unit (12) of the first key (10) includes a subset (AB) of the complete code-set (ABCD) required to initiate deactivation of the alarm system and/or opening of the container (1).

Claim 12. An arrangement for carrying out the process according to Claim 2, characterised in that the arrangement includes said second key (20) which has said third electronic unit (22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

Claim 13. An arrangement for carrying out the process according to Claim 3, characterised in that the arrangement includes said second key (20) which has a third electronic unit (22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

Claim 14. An arrangement for carrying out the process according to Claim 4, characterised in that the arrangement includes said second key (20) which has a third electronic unit

(22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

Claim 15. An arrangement for carrying out the process according to Claim 5, characterised in that the arrangement includes said second key (20) which has a third electronic unit (22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

Claim 16. An arrangement for carrying out the process according to Claim 6, characterised in that the arrangement includes said second key (20) which has a third electronic unit (22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

Claim 17. An arrangement for carrying out the process according to Claim 7, characterised in that the arrangement includes said second key (20) which has a third electronic unit

(22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

Claim 18. An arrangement for carrying out the process according to Claim 8, characterised in that the arrangement includes said second key (20) which has a third electronic unit (22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

Claim 19. An arrangement for carrying out the process according to Claim 9, characterised in that the arrangement includes said second key (20) which has a third electronic unit (22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

Claim 20. An arrangement for carrying out the process according to Claim 11, characterised in that the arrangement includes said second key (20) which has said third electronic

unit (22) for storing said code subset (CD); and in that said third electronic unit (22) of said second key (20) is encapsulated in a casing (21) which can be anchored stationarily to a permanent part (60) of a building structure or some other appropriate structure.

EVIDENCE APPENDIX

NONE

RELATED PROCEEDINGS APPENDIX

NONE